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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/759,593	01/12/2001	Evan E. Koslow	349.6640USU	9420

30546 7590 11/21/2002

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EXAMINER	
POPOVICS, ROBERT J	

ART UNIT	PAPER NUMBER
1724	14

DATE MAILED: 11/21/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

CJL

Office Action Summary

Application No.	Applicant(s)
09/759,593	Koslow et al.
Examiner	**Group Art Unit**
Popovics	1724

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE Three MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

☒ Responsive to communication(s) filed on 8/21/02 (Change of Address).

☐ This action is **FINAL.**

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 1 1; 453 O.G. 213.

Disposition of Claims

☒ Claim(s) 1-46 is/are pending in the application.

Of the above claim(s) 15-16, and 24-37 is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-14, 17-23 and 38-46 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claim(s) _____ are subject to restriction or election requirement

Application Papers

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)–(d)

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)–(d).

☐ All ☐ Some* ☐ None of the:

☐ Certified copies of the priority documents have been received.

☐ Certified copies of the priority documents have been received in Application No. _____.

☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

*Certified copies not received: _____.

Attachment(s)

☐ Information Disclosure Statement(s), PTO–1449, Paper No(s). _____

☒ Notice of Reference(s) Cited, PTO–892

☐ Notice of Draftsperson's Patent Drawing Review, PTO–948

☐ Interview Summary, PTO–413

☐ Notice of Informal Patent Application, PTO–152

☐ Other _____

Office Action Summary

DETAILED ACTION

Election/Restriction

1. Applicant's election of Group I in Paper No. 12 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless -
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-6,8-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Heiligman (5,652,008). See Figures 1-2.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claim 7 is rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Heiligman (5,652,008). With respect to claim 7, it is submitted

that handle 72 is "releasably attached" to the means for removing, since it could be snapped or cut off, or otherwise removed. Alternatively, it is submitted that it would have been obvious to make handle 72 releasably attachable in order to be able to remove it for cleaning the device, or when it was not needed.

6. Claims 17-23 and 38-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combined teachings of Heiligman (5,393,548) and Heiligman (5,652,008). Claims 17 et al. differ from Heiligman '008 as applied above by specifying a spatial relationship between the "device" and the compartment and/or ingredients. Heiligman '548 discloses the use of a similar device to purify water prior to contacting the brewing beans. The disclosed device is situated within the compartment of the coffee maker. It is submitted that it would have been exceedingly obvious to employ the legged device of Heiligman '008 (see legs 90) within the compartment of a coffee maker in order to more securely position the filter. Alternatively, it would have been obvious to modify the device of Heiligman '548 by incorporating legs in order to more securely position the filter within the compartment. In either case, it would have been obvious to one of ordinary skill in the art to space the filter from the coffee grinds in order to prevent them from adhering to the filter and being spread about when the filter was removed. With respect to claim 46, the use of "fused" filtration media is conventionally known in the art. It is submitted that it would have been obvious to employ such media in the filter as modified above, in order to facilitate easier changing of the media.

Claim Rejections - 35 USC § 112

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 1-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, it is unclear whether Applicant intends to claim the combination, or just the "device." For the purposes of the art rejection above, the recitations with respect to the "compartment" have been taken as recitations of ***intended use***, and are not seen to further define the structure of the "device"/article being claimed. If Applicant intends to claim the combination, then the claims should clearly recite the ***combination***.

Conclusion

9. This action is NOT FINAL.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Popovics whose telephone number is (703) 308-0684.

RJP
November 18, 2002

ROBERT J. POPOVICS
PRIMARY EXAMINER